IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 18941 of 2004

Between:

M/s. Heinz India Ltd., Kesavnagar Colony,

Mettuguda, Secunderabad, rep.by its

Auth.Signatory, Mr.K.Thyagarajan. **..... PETITIONER**

AND

1.The Commercial Tax officer,

Musheerabad Circle, Hyderabad.
2.The Appellate Deputy Commissioner (CT),

Secunderabad Division, Hyderabad.
3.The Commissioner for Commercial Taxes,

Andhra Pradesh, Nampally, Hyderabad. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction setting aside the impugned circular of the 3rd Respondent in CCT's Ref.A1/686/2003 dated 15-9-2003 and the circular A1(1)/495/2004 dated 6-8-2004, as illegal, without jurisdiction and in violation of principles of natural justice and consequently set aside the appellate orders of the 2nd Respondent dated 3-9-2004 confirming the provisional orders passed by the 1st Respondent dated 12-12-2003 for the years 2002-03 & 2003-04 treating Glucon-D as drugs and medicine under Entry 37 of the First schedule to the APGST Act or in the alternative set

aside illegal circulars of the 3rd Respondent dated 15-9-2003 & 6-8-2004 restrain the 1st respondent from collecting balance disputed tax of Rs.23,26,653/- & Rs.12,30,178/- for the assessment years 2002-03 & 2003-04 respectively pending disposal of the appeals filed by the petitioner before the sales Tax Appellate Tribunal.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court at the stage of admission made the following:

ORDER: (PER Sri Bilal Nazki, J)

Heard learned Counsel for the parties. With their consent, the Writ Petition is being disposed of at this stage.

The controversy is that pending appeals, applications for stay were dismissed by the competent authority. We have gone through the record. In our view stay should have been granted as the petitioner has already deposited 50% of the disputed amount. Therefore, we direct that there shall be stay of recovery till disposal of appeal.

Writ Petition is disposed of accordingly. No costs.

(BILAL NAZKI, J)

14th October, 2004

(S.ANANDA REDDY, J)

Note:

Wire at party's costs

B/o

LUR

Copy to:

1.The Commercial Tax officer,

Musheerabad Circle, Hyderabad.
2.The Appellate Deputy Commissioner (CT),

Secunderabad Division, Hyderabad.
3.The Commissioner for Commercial Taxes,

Andhra Pradesh, Nampally, Hyderabad.

4.Two CCs to the G.P. for Commercial Taxes,

High Court Buildings, High Court of A.P.,

Hyderabad (O.U.T.).

5.Two CD copies.